



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA  
(Set up by an Act of Parliament)

[PR-155/2019-DD/165/2019/BOD/629/2022]

ORDER UNDER SECTION 21A(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 15(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007

In the matter of:-

**Shri Raghunatha Bhat S.,**  
AGM, Corporation Bank,  
Plot No.9, Roots Tower, District Centre, Laxmi Nagar  
DELHI – 110092.

.....Complainant

Versus

**CA. Saroj Kumar Mishra (M. No. 511151)**  
Erstwhile Prop. of M/s. S.K. Mishra & Co.,  
No.205, 2nd Floor, Vardhman Shrenik Plaza, L SC B-Block, Mayur Vihar, Phase-I,  
NEW DELHI – 110091.

.....Respondent

[PR-155/2019-DD/165/2019/BOD/629/2022]

MEMBERS PRESENT (through video conferencing):

**CA. Rajendra Kumar P, Presiding Officer**  
**Ms. Dolly Chakrabarty (IAAS, ret'd.), Government Nominee**  
**CA. Priti Savla, Member**

**Date of Hearing and passing Order: 17<sup>th</sup> December 2023**

1. The Board of Discipline vide its Findings dated **26<sup>th</sup> October 2023** was of the view that **CA. Saroj Kumar Mishra (M. No. 511151)** is guilty of "Other Misconduct" falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Saroj Kumar Mishra** and communication dated 12<sup>th</sup> December 2023 was addressed to him thereby granting him an opportunity of being heard on 17<sup>th</sup> December 2023 which was exercised by him by being present in person before the Board. He confirmed receipt of the Findings of the Board. He also made his written representation on the Findings of the Board and requested the Board to take a lenient view in the case keeping in view the fact that no financial irregularities are involved in the matter, and he has also repaid the due amount to the Complainant Bank. The Board also noted that the Respondent in his written representation requested to consider his case in terms of the provisions of Rule 12 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. In this regard, the Board was of the view that it has already arrived at its Findings on the conduct of the Respondent after giving due opportunity of being heard to both the parties to the case. The said plea was never raised by the Respondent during the course of investigation/enquiry and thus, is now belated and cannot be accepted.
3. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Saroj Kumar Mishra (M. No. 511151)** and keeping in view his representation before it, the Board decided to Reprimand him.

Sd/-

**CA. Rajendra Kumar P**  
(Presiding Officer)

Sd/-

**Ms. Dolly Chakrabarty (IAAS, ret'd.)**  
(Government Nominee)

Sd/-

**CA. Priti Savla**  
(Member)

सही प्रतिलिपि होने से निम्न प्रमाणित/  
Certified to be true copy

नीलम पुंडीर / Neelam Pundir  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
आईसीएआई भवन, विश्वनाथ नगर, शाहदद, दिल्ली-110032  
ICAI Bhawan, Vishwanath Nagar, Shahdada, Delhi-110032

CONFIDENTIAL

**BOARD OF DISCIPLINE**

**Constituted under Section 21A of the Chartered Accountants Act 1949**

**Findings under Rule 14 (9) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007**

**File No. : [PR-155/2019-DD/165/2019/BOD/629/2022]**

**CORAM (in person):**

**CA. Rajendra Kumar P, Presiding Officer**

**Ms. Dolly Chakrabarty (IAAS, Retd.), Government Nominee**

**In the matter of:**

**Shri Raghunatha Bhat S.,  
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No.205, 2nd Floor,  
Vardhman Shrenik Plaza,  
L SC B-Block, Mayur Vihar, Phase-I,  
NEW DELHI – 110091.**

**.....Respondent**

**DATE OF FINAL HEARING : 17<sup>th</sup> May, 2023**

**PLACE OF FINAL HEARING : New Delhi**

**PARTIES PRESENT (in person):**

**Respondent : CA. Saroj Kumar Mishra**

**FINDINGS:**

**CHARGE ALLEGED:**

1. The Respondent/firm availed loan/credit facilities from the Complainant Bank in accordance with MOU entered into with ICAI. It has been alleged that the Respondent

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submitted fabricated Financial Statements and other documents to avail/continue to avail said credit facilities.

**BRIEF OF PROCEEDINGS HELD:**

2.

Date of Hearing(s)	Status
17 <sup>th</sup> May 2023	Heard and concluded.

**BRIEF SUBMISSIONS OF THE PARTIES TO THE CASE:**

**A. COMPLAINANT:**

3. The Complainant in his submissions inter-alia submitted as under:-

3.1 The credit facilities sanctioned to the Respondent stand closed in their Books of Accounts on 08.04.2019 and the Bank has nothing to recover from M/s S. K. Mishra & Co as on 16.05.2023.

**B. RESPONDENT:**

4. The Respondent in his defense, inter-alia, submitted as under:-

4.1 The Respondent got the registration of his proprietorship firm since 06.05.2010, in the name of M/s. S.K. Mishra & Co. and formed Partnership firm on 16.08.2011 (the date of joining SDM and Associates as partner).The Respondent approached the Complainant bank to avail CA OD which was finally sanctioned in his proprietorship firm and also in the name of M/s. SDM and Associates partnership firm, which was well known to the banker that he is a partner as well as proprietor. Later on, with the view of covering a wide area of services, he entered in partnership on 16.08.2011.

4.2 M/s. SDM and Associates approached the Complainant bank to avail CA Term Loan to furnish office. The Bank sanctioned Rs 5 lakh Term Loan and Rs 2 lakh OD Facility to SDM & Associates in which Respondent is also a signatory which is well known to the officers of bank. The Respondent was not aware whether simultaneous limits are allowed or not in both proprietor and partnership firm name.

4.3 The Respondent's Firm has been merged with M/s. SDM & Associates (FRN:024100N) on 29.12.2014, so his admission as partner is showing from 06.05.2010 being the registration date of his old Firm, though M/s. SDM & Associates has been registered on 16.08.2011, which can also be verified from the records of ICAI. The Respondent used to file return of

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self-income/expenditure in Form no. ITR 3 (earlier it was ITR 4) which every, non-salaried person, needs to file every year as other income like accountancy and consultancy services were used to be provided even after merger of his firm in individual capacity. Payments from individual did not cross maximum amount where it was needed to TDS (Respondent had somewhere 100 individuals from whom he got 10,000-20,000 on an average per individual annually in name of Bookkeeping, Tax Return Preparation, etc.).

- 4.4 The letter head of M/s. S. K. Mishra and Company was used because the Respondent was practicing in individual name also so he provided the letter on proprietorship name but nowhere, he mentioned Respondent's proprietorship firm Registration number. The Respondent was not aware that proprietorship loan has to be closed after merger and banker have never informed him to close the account though they visited many times and found only M/s. SDM & Associates Board and office.
- 4.5 The Respondent gave the record of Constitution certificate to the bank initially while sanctioning the limit. Thereafter, the Complainant Bank never demanded the same when orally asked by their verification team. The Respondent had always informed that the Firm has been Merged with M/s SDM & Associates but still they renewed the limit and also debited the processing fee of Rs. 5000 from his account. The Respondent was not informed about the fact that the merged firm cannot continue the limit during the course of their Branch Audit. He got a call from the Branch to get the amount paid. So, he got the amount paid on the same day without any delay. His intention was not to cheat or fraud with the Complainant bank rather he suffered loss of processing fee deducted in March 19 though he cleared the loan in April-19. If anything happened as a procedural lapse, it would have occurred in normal course or over tightening of any information which was to be revealed but not revealed. Everything has been done in good faith and true spirit.

**OBSERVATIONS OF THE BOARD:**

- 5.1 At the outset, the Board noted that a credit limit of Rs. 2.00 lakh was sanctioned to the Respondent being proprietor of M/s. S K Mishra & Co., Chartered Accountants (hereinafter referred to as the 'Firm') by the Complainant bank on 01/10/2011. The said firm was merged with M/s. SDM & Associates on 29/12/2014. Thus, it is evident that said firm did not exist after 29/12/2014. However, the Respondent issued/certified the following documents using the letter head and in name & style of the said proprietorship firm after the same had been merged on 29<sup>th</sup> December 2014: -
- (a) Letter dated 18/09/2018 addressed to the Complainant bank for renewal of credit limit.
  - (b) List of Sundry Debtors as on 31/08/2018, 30/09/2015 of the firm.
  - (c) Computation, Profit & loss account and Balance Sheet of the firm as on 31.03.2018 and ITR for FY 2017-18.

(d) Letter dated 06/12/2016 addressed to the Complainant bank for renewal of credit limit.

5.2 The Board also noted that the Respondent during the course of hearing admitted his guilt.

5.3 Thus, the Board was of the view that by submitting the aforesaid documents in name of the non-existent/merged firm, the Respondent has in a way not only misled the Bank authorities by submitting fabricated documents in the name of the erstwhile firm, M/s. S K Mishra & Co. which was a proprietorship firm but has also attempted to continue the credit limits extended by the Bank in an illegal manner with the non-existent firm. The Board was also of the view that non-mentioning of the proprietorship firm registration number on the aforesaid documents does not in any way mitigate the misconduct alleged on the part of the Respondent.

5.4 The Board was of the view that although it is on record that all outstanding dues of the Complainant Bank were paid/cleared by the Respondent on 08/04/2019 i.e., one day before filing of the instant complaint with ICAI, however, in light of the fact that the Respondent despite being aware that the Proprietorship firm is not in practice provided misleading information to the Complainant Bank for the purpose of renewal of credit facilities extended by the Bank in terms of the MOU entered into between the Complainant Bank and ICAI, the said act by the Respondent is unbecoming of a Chartered Accountant and has brought disrepute to the profession. Accordingly, the Board held the Respondent guilty in respect of the charge alleged.

**CONCLUSION:**

6. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **GUILTY** of Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

Sd/-


CA. Rajendra Kumar P  
(Presiding Officer)

Sd/-

Ms. Dolly Chakrabarty (IAAS, ret'd.)  
(Government Nominee)

DATE: 26-10-2023

सही प्रतिलिपि होने के लिए प्रमाणित /  
Certified to be true copy

  
निशा शर्मा / Anisha Sharma  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
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